



City of Seattle

Greg Nickels, Mayor
Department of Planning and Development
D.M. Sugimura, Director

**CITY OF SEATTLE
ANALYSIS AND DECISION OF THE DIRECTOR
OF THE DEPARTMENT OF PLANNING AND DEVELOPMENT**

Application Number: 2401570
Applicant Name: Timothy and Christine McKee
Address of Proposal: 169 35th Avenue East

SUMMARY OF PROPOSED ACTION

Master Use Permit for a retaining wall system accessory to the house at 169 35th Avenue East in a steep slope, land-slide prone Environmentally Critical Area (ECA) and constructed without required permits. The existing (new) retaining wall ranges in height between 4 feet 7 inches and 8 feet 9 inches and replaced a previous wall in approximately the same location.

The following approval is required:

SEPA – Chapter 25.05 Seattle Municipal Code for excavation and construction in an Environmentally Critical Area.

SEPA DETERMINATION

- ☐ Exempt ☐ DNS ☐ MDNS ☐ EIS
- ☐ DNS with conditions
- ☒ DNS involving non-exempt grading, or demolition, or involving another agency with jurisdiction.

Site and Vicinity Description

The project is located in the Madrona neighborhood close to the intersection of 34th Avenue East and 35th Avenue East. The site and surrounding properties contain areas of steep slope. The location of the wall is steep slope due to previous grading and excavation required to create the adjacent streets. Naturally, this area would still be steep slope, but of a more gradual incline. The site and all surrounding properties are zoned Single Family residential with a minimum lot size of 5000 sq. ft. (SF 5000).

Project Description

A rockery-retaining wall was constructed along the southeast property boundary at this location. The wall ranges in height between 4 feet 7 inches and 8 feet 9 inches and 126 feet in length. The constructed rockery replaced an existing wall and was built without the required Building Permit(s) and associated engineering review. A Notice of Violation was issued January 3, 2003 (#BC224628) for the construction of a rockery with a height greater than 4 feet without a building permit. Subsequently, the property owner applied for a building permit, submitted a SEPA checklist, and applied for and received a Limited Exemption from the Environmentally Critical Areas Regulations for Steep Slopes (SMC 25.09.180.D.4). The Limited Exemption requires ECA review but waives the restriction of the development level of 30 percent of the Steep Slope Critical Area. Consequently, a structure of this size and type can be built in the entire steep slope area provided the design and construction of the wall receives geotechnical, engineering, and construction approvals.

Seattle Municipal Code (SMC) 23.44.014.D.10.d, the regulations for bulkheads in required yards of single family structures, allows retaining walls used to protect a cut into existing grade up to the minimum height necessary to support the cut or 6 feet, whichever is greater. The final required wall height will be determined through Building Permit review.

Public Comment

DPD received no comment letters in response to the application.

ANALYSIS – SEPA

The proposal site is located in a steeply sloped, landslide-prone critical area, thus the application is not exempt from SEPA review. However, SMC 25.05.908 provides that the scope of environmental review of projects within critical areas shall be limited to: 1) documenting whether the proposal is consistent with the City's Environmentally Critical Areas (ECA) regulations in SMC 25.09; and 2) Evaluating potentially significant impacts on the critical area resources not adequately addressed in the ECA regulations. This review includes identifying additional mitigation measures needed to protect the ECA in order to achieve consistency with SEPA and other applicable environmental laws.

Environmental review resulting in a Threshold Determination is required pursuant to the Seattle State Environmental Policy Act (SEPA), WAC 197-11, and the Seattle SEPA Ordinance (Seattle Municipal Code Chapter 25.05).

The applicant has submitted a signed environmental checklist dated January 4, 2004, and a geotechnical evaluation prepared by Creative Engineering Options and dated July 7, 2003. Information in these environmental documents, plans and other information submitted by the applicant, and the permitting agency's experience form the basis for this analysis and decision. As indicated in this analysis, this action may result in adverse impacts to the environment. However, due to their temporary nature, limited effects, and existing Codes designed to address these impacts, the impacts are not expected to be significant.

The SEPA Overview Policy (SMC 25.05.665) clarifies the relationship between codes, policies, and environmental review. Specific policies for each element of the environment, and certain neighborhood plans and other policies explicitly referenced, may serve as the basis for exercising substantive SEPA authority. The Overview Policy states, in part, *“Where City regulations have been adopted to address and environmental impact, it shall be presumed that such regulations are adequate to achieve sufficient mitigation”* subject to some limitations. Under such limitations or circumstances (SMC 25.05.665 D) mitigation can be considered. Thus, a more detailed discussion of some of the impacts is appropriate. Short-term and long-term adverse impacts are anticipated from the proposal.

Short-term Impacts

The following temporary or construction-related impacts would be expected with the already constructed rockery and may be expected if further construction is required: 1) temporary soil erosion; and 2) increased noise, vibration, and fumes from construction operations and equipment. These impacts are not considered significant because they are temporary and/or minor in scope (25.05.794).

Long-term Impacts

A possible long term impact from this project is the movement of the slope due to inadequately engineered and/or constructed rockery-retaining wall. This impact is not considered significant (having a reasonable likelihood of more than a moderate adverse impact); existing City Codes development regulations applicable to this project will provide sufficient mitigation and no further conditioning or mitigation is warranted pursuant to the SEPA Overview Policy (SMC 25.05.665).

Conclusion - SEPA

In conclusion, DPD finds potential effects on the environment resulting from the proposed rockery-retaining wall. However, Codes and development regulations applicable to this project will provide sufficient mitigation for the specific impacts identified in the environmental checklist, therefore no further conditioning or mitigation is warranted pursuant to the SEPA.

DECISION – SEPA

This decision was made after review by the responsible official on behalf of the lead agency of a completed environmental checklist and other information on file with the responsible department. This constitutes the Threshold Determination and form. The intent of this declaration is to satisfy the requirement of the State Environmental Policy Act (RCW 43.21.C), including the requirement to inform the public of agency decisions pursuant to SEPA.

- [X] Determination of Non-Significance. This proposal has been determined to not have a significant adverse impact upon the environment. An EIA is not required under RCW 43.21C.030(2)(C).
- [] Determination of Significance. This proposal has or may have a significant adverse impact upon the environment. An EIS is required under RCW 43.21C.030(2)(C).

CONDITIONS – SEPA

None.

Signature: (signature on file) Date: August 12, 2004

Art Pederson, Land Use Planner
Department of Planning and Development
Land Use Division

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